

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re BAYCOL PRODUCTS LITIGATION

MDL NO. 1431
(MJD/SRN)

This Document Relates to:

ORDER

Jeffrey Adams, et al., v. Bayer Corp., et al.
(Plaintiff Marcia Day only)

Case No. 04-3272

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Susan Richard Nelson dated June 1, 2007. Plaintiff has objected to the Report and Recommendation, arguing counsel had a scheduling conflict.

Defendant responds that at no time prior to the scheduled deposition on May 7, 2007 did Plaintiff's counsel contact Defendant to notify of a scheduling conflict. In fact, it appears the first Defendant learned of any conflicts was by letter dated May 8, 2007.

Based on the Report and Recommendation of the Magistrate Judge, and all of the files, records and proceedings herein,

IT IS HEREBY ORDERED that:

1. Defendant Bayer Corporation's Motion for Discovery Sanctions against Plaintiff Marcia Day [Doc. No. 49] is GRANTED;
2. Plaintiff Marcia Day's action is DISMISSED WITH PREJUDICE; and
3. Plaintiff's counsel is required to pay the sum of \$155.50 to Bayer Corporation within 10 days of the District Court's Order.

DATED: August 3, 2007

s / Michael J. Davis
Judge Michael J. Davis
United States District Court Judge